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4 **UNITED STATES DISTRICT COURT**
5 **DISTRICT OF NEVADA**

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7 ANDRE D. BOSTON,

8
9 Petitioner,

10 vs.

11 ROE, et al.,

12 Respondents.
13

2:95-cv-00254-PMP-CWH

ORDER

14 Nearly twenty years ago, Petitioner Andre Boston filed a Petition for
15 Habeas Corpus Relief Pursuant to 28 U.S.C. § 2254 (Doc. #2 filed March 24, 1995).
16 On July 21, 1997, this Court entered an Order (Doc. #29) dismissing Petitioner
17 Boston's Petition for Habeas Relief, and granting Respondents' Motion to Dismiss
18 (Doc. #30).

19 On August 21, 1997, Petitioner Andre Boston filed a timely Notice of
20 Appeal and Appellate relief was thereafter denied.

21 On June 6, 2012, Petitioner Boston filed a Motion for Relief from Final
22 Judgment Pursuant to Rule 60(b) of the Fed. R. Civ. P., or in the Alternative
23 Construction of Motion as a Writ of Mandamus (Doc. #40). On July 3, 2012, this
24 Court entered an Order (Doc. #43) denying Petitioner Boston's Motion (Doc. #43).

25 Currently before the Court is a Second Motion for Relief from Final
26 Judgment (Doc. #46) filed January 16, 2014 on behalf of Petitioner Andre Boston.

1 That motion is now fully briefed, and again for the reasons set forth in Respondents'
2 Opposition, the Court finds that Petitioner Boston's Motion for Relief (Doc. #46)
3 must be denied.

4 Specifically, Rule 60(b) of the Federal Rules of Civil Procedure requires
5 that the Petitioner show "extraordinary circumstances justifying the reopening of a
6 final judgment." *Gonzalez v. Crosby*, 545 U.S. 524, 535 (2005). Additionally, for
7 relief under Rule 60(b)(6), Petitioner must demonstrate that the request for relief
8 was "made within a reasonable time." Here, Petitioner Boston has failed to show
9 that either extraordinary circumstances justify reopening of the Final Judgment
10 entered in 1997, nor that the delay in bringing his motions for relief was reasonable.

11 **IT IS THEREFORE ORDERED** that Petitioner Boston's Motion to File
12 A Reply Memorandum (Doc. #49) is GRANTED.

13 **IT IS FURTHER ORDERED** that Petitioner Andre Boston's Motion for
14 Relief From Final Judgment (Doc. #46) is hereby DENIED with Prejudice.

15 **IT IS FURTHER ORDERED** that no Certificate of Appeal shall issue as
16 no good grounds therefore are presented.

17 DATED: February 10, 2014.

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20 PHILIP M. PRO
21 United States District Judge
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